

UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES

--○○○--

In Re:) Case No. 2:21-bk-18205-DS
)
CRESTLLOYD, LLC,) Chapter 11
) Los Angeles, California
)
Debtor,) Thursday, 11:30 A.M.
) January 6, 2022

HEARING RE: [88] DEBTOR'S
NOTICE OF MOTION AND
MOTION TO:
(1) APPROVE AUCTION AND
BID PROCEDURES REGARDING
THE SALE OF REAL PROPERTY/
AND
(2) SET SCHEDULING FOR A
MOTION TO APPROVE THE SALE
OF REAL PROPERTY

TRANSCRIPT OF ZOOM PROCEEDINGS
BEFORE THE HONORABLE DEBORAH SALTZMAN
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

For the Debtor: DAVID B. GOLUBCHIK, ESQ.
TODD ARNOLD, ESQ.
Levene Neale Bender Yoo &
Golubchik, LLP
2818 La Cienega Avenue
Los Angeles, California 90034

Proceedings produced by electronic sound recording;
transcript produced by transcription service.

1 For Hankey Capital: THOMAS M. GEHER, ESQ.
2 Jeffer Mangels Butler &
3 Mitchell, LLP
1900 Avenue of the Stars
Seventh Floor
Los Angeles, California 90067
4
5 For Inferno Investment, KYRA E. ANDRASSY, ESQ.
Inc.: Smiley Wang-Ekvall, LLP
6 3200 Park Center Drive
Suite #250
Costa Mesa, California 92626
7
8 For Yogi Securities MARK SHINDERMAN, ESQ.
Holdings: WILLIAM SCHUMACHER, ESQ.
9 Milbank, LLP
2029 Century Park East
33rd Floor
10 Los Angeles, California 90067
11 For Hilldun Corp.: JERROLD BREGMAN, ESQ.
12 BG Law, LLP
21650 Oxnard Street
13 Suite #500
Woodland Hills, California 90032
14 For the U.S. Trustee: NOREEN MADOGAN, ESQ.
15 U.S. Trustee's Office
915 Wilshire Boulevard
16 Suite #1850
Los Angeles, California 90017
17 Court Recorder: Dawnnette Francis
U.S. Bankruptcy Court
Central District of California
Edward R. Roybal Federal Building
and Courthouse
255 East Temple Street, Room #940
20 Los Angeles, California 90012
(855) 460-9641
18
19
20
21 Court Transcriptionist: Ruth Ann Hager, C.E.T.**D-641
22 Ben Hyatt Certified Deposition
Reporters
23 17835 Ventura Boulevard, Suite 310
Encino, California 91316
24
25

Page

3

1

I N D E X

2

3 WITNESSES DIRECT CROSS REDIRECT RECROSS

4 CHAD ROFFERS

5 By the Court 35

6 By Mr. Shinderman 42

7

8

9

10

11 Exhibits

Ident.

Evid.

12 (None)

13

14

15

16

17

18

19

20

21

22

23

24

25

Page

4

1 LOS ANGELES, CALIFORNIA, THURSDAY, JANUARY 6, 2022

2 10:21 A.M.

3 --oo--

4 THE COURT: For #4.00 next is Crestlloyd, our
5 bidding procedures motion. And I'm going to start with the
6 appearances we've collected. I think we may have a number
7 of observers here, so I'll begin calling roll from the list
8 that my law clerks have collected with your assistance. If
9 I get to the end of that list and you plan on addressing
10 something, not just observing, please speak up and let me
11 know your name and who you represent. So let me begin with
12 my list here.

13 Mr. Golubchik and Mr. Arnold, good morning -- or
14 good afternoon.

15 MR. GOLUBCHIK: Good morning, Your Honor.

16 MR. ARNOLD: Hello.

17 THE COURT: Yes. If you could both just state
18 your name for the record and who you represent.

19 MR. GOLUBCHIK: Sure, Your Honor. David
20 Golubchik, Levene Neale Bender Yoo & Golubchik, on behalf
21 of the debtor.

22 MR. ARNOLD: Todd Arnold of Levene Neale Bender
23 Yoo & Golubchik on behalf of the debtor.

24 THE COURT: Did you hear me focusing (phonetic)
25 here? Okay.

Page

5

1 Mr. Geher, good afternoon.

2 MR. GEHER: Good afternoon, Your Honor. Thomas
3 M. Geher, Jeffer Mangels Butler & Mitchell, appearing for
4 secured creditor Hankey Capital.

5 THE COURT: Ms. Andrassy, good afternoon.

6 MS. ANDRASSY: Good afternoon, Your Honor. Kyra
7 Andrassy, Smiley Wang-Ekvall, appearing for secured
8 creditor, Inferno Investment, Inc.

9 THE COURT: Ms. Andrassy, I understood what you
10 were saying because I know your name and I know the name of
11 your client, but your connection is not the greatest.
12 Hopefully it will improve, but you were breaking up a
13 little bit.

14 MS. ANDRASSY: Okay. I'll also call in.

15 THE COURT: Okay. Thank you.

16 Mr. Shinderman and Mr. Schumacher, good
17 morning -- or good afternoon, rather.

18 MR. SHINDERMAN: Good afternoon, Your Honor.
19 Mark Shinderman of Milbank, LLP, on behalf of Yogi
20 Securities Holdings, LLC, a secured creditor. Good
21 afternoon.

22 MR. SCHUMACHER: Good afternoon, Your Honor, Will
23 Schumacher of Milbank, LLP, on behalf of Yogi Securities
24 Holdings.

25 THE COURT: Mr. Bregman, good afternoon.

Page

6

1 MR. BREGMAN: Good afternoon, Your Honor.

2 Jerrold Bregman from BG Law on behalf of Hilldun Corp., a
3 secured creditor.

4 THE COURT: Mr. O'Dea, good afternoon.

5 MR. O'DEA: Good morning, Your Honor. Ryan O'Dea
6 of Shulman Bastian Friedman & Bui on behalf of American
7 Rentals, Inc. I'm merely observing this morning -- or this
8 afternoon.

9 THE COURT: Okay. Ms. Madoyan, good afternoon
10 again.

11 MS. MADOYAN: Good afternoon, Your Honor. Noreen
12 Madoyan on behalf of the U.S. Trustee's Office.

13 THE COURT: I think everyone else we have here is
14 observing. Does anyone else plan on speaking to any of the
15 issues in the sale procedures motion?

16 MR. GOLUBCHIK: Your Honor, this is David
17 Golubchik. To the extent that we need testimony, we have a
18 few parties with knowledge. One is Chad Roffers from
19 Concierge and we have Aaron Kirman from Compass, to the
20 extent that the Court wants to hear from the broker
21 auctioneer group. And to the extent there's any questions
22 about the property from SCP we have Lauren Perkins, Mel
23 Staglik and Colin Moran (phonetic).

24 THE COURT: Okay. Thank you. We have the motion
25 filed under our Local Bankruptcy Rule procedure, which is

Page

7

1 kind of an abbreviated procedure for bid procedures. There
2 was a limited opposition that was filed and I have to say
3 it raised a lot of good points and it's highlighted what my
4 concerns were by reading the motion, which is that this is
5 awfully fast.

6 And this is a motion, you know, filed in a case
7 that was filed in October that it basically recites the
8 legal standards. You know, sales procedures are supposed
9 to, you know, maximize opportunity to bid and maximize the
10 value to the estate, and then just kind of makes a whole
11 bunch of assertions. These procedures will do that. Very
12 little discussion, very little actual information as to how
13 these procedures and this timeline really would fulfill the
14 goals, you know, set forth in the Code and the applicable
15 case law.

16 So, Mr. Golubchik, I have a lot of concerns with
17 these procedures and this timeline.

18 MR. GOLUBCHIK: I'm happy to address --

19 THE COURT: Yeah.

20 MR. GOLUBCHIK: -- our other issues that -- just
21 so I can cover everything or shall we do one by one?

22 THE COURT: I mean, it really is -- the
23 procedures that -- I don't understand the lack of any
24 minimum bid and, again, I don't see how these proposed
25 procedures will help accomplish the goal in maximizing the

Page

8

1 return to these fees. There's -- I understand and I
2 appreciate the efforts that the debtors have made with the
3 named secured creditor, but that's not the only creditor
4 here.

5 MR. GOLUBCHIK: Understood. Let me give it a
6 shot, Your Honor.

7 THE COURT: Um-hum.

8 MR. GOLUBCHIK: This property -- I think everyone
9 in the world knows about this property. We've had
10 brokers -- Mr. Kerman and the Williams were engaged and
11 were marketing the property before the receivership
12 proceeding occurred. During the receivership proceeding
13 the receiver employed a broker. So it's not a new property
14 that's coming into the market. There has been knowledge
15 about the property.

16 The concern that the estate has, is this is a
17 very expensive property to maintain. I think we've paid
18 close to four million dollars for procuring insurance,
19 property taxes, accrual of interest, regular maintenance
20 for the seven pools and everything. It's just a very
21 expensive property.

22 In discussions with the real estate broker and
23 Concierge and hopefully the Court saw the employment
24 applications to which --

25 THE COURT: I did and I did not enter that order

Page

9

1 because it kind of incorporated these procedures.

2 MR. GOLUBCHIK: Sure. But the experience and the
3 knowledge and including because we'll be talking about the
4 buyer's premium and the credit that's covered by the
5 Concierge declaration, it's important. Concierge basically
6 is the 800-pound gorilla in the lesser real estate market.
7 Holds over 90 percent market share, has a list of all the
8 top people, and in consultation with Concierge, as well as
9 the brokers. The decision that was made is there is
10 sufficient time in order to adequately market this
11 property.

12 Unlike other properties that are lower in value,
13 this is not a type of property that the majority of the
14 world would be able to afford. This is probably geared
15 towards the billionaires of the world. I understand that
16 there's a list of 3800 or somewhere around there
17 billionaires in the world in order to target them directly.
18 This is not a type of property that's going to require
19 financing because the people that will bid on this property
20 will have funds maybe in their crypto accounts or in their
21 sovereign accounts, the type of buyers that would buy it.
22 So this is not as is the case with many other properties
23 where you need time for financing and due diligence and
24 things like that.

25 So we have a target audience here between

Page

10

1 Mr. Firman (phonetic) and the Williams and Concierge
2 database or Rolodex -- I don't know if you can say Rolodex
3 these days anymore -- of potential buyers. They are
4 covering the billionaires of the world that would be able
5 to do it.

6 So based on the business judgment of Mr. Perkins,
7 who's here on behalf of the manager, that costs associated
8 with the process and in consultation with the experts got
9 here and the broker, the decision was made that this is a
10 sale that can happen early February with a closing by the
11 end of -- by the end of February.

12 There has been substantial marketing. There have
13 been press releases. They've been absent. *Architectural*
14 *Digest*, *Robbs Report*, *Forbes*. This morning when I left the
15 house there's a big write-up on CNN -- CNN's website on the
16 property.

17 So for purposes of exposure, which is the issue
18 here, at the end of the day the market is going to dictate
19 the value. The question is, are we going to be able to
20 attract the interested parties and the bidders to bid. And
21 based on the efforts that have been done today, our
22 professional group believes that that has been accomplished
23 and we still have time, till February, to continue.
24 There'll be showings. There are showings pretty much every
25 day responding to inquiries.

Page

11

1 So as to the timing, we believe based on what has
2 been done, what is being done, and our target audience,
3 which is unusual based on real estate transactions, the
4 timeline works. So now the --

5 THE COURT: What -- yeah, go ahead.

6 MR. GOLUBCHIK: I was going to move to the
7 reserve. No reserve.

8 THE COURT: Perfect.

9 MR. GOLUBCHIK: Again, the thought of the
10 manager there, Mr. Perkins, and most other bankruptcy deals
11 would come in thinking, we need a reserve. The minimum
12 reserve should I think cover the secured debt or maybe
13 undisputed portion of the secured debt. Again, in
14 consultation with the brokers and consultation with
15 Concierge, the termination was whenever you have a minimum
16 bid set, there's a psychological view by interested parties
17 that that's the value of the property or that should be the
18 value of the property.

19 However, when you have --

20 THE COURT: I'm not sure that that actually is
21 supported, but okay.

22 MR. GOLUBCHIK: I'm going -- I'm letting you know
23 our discussions with our experts who are here --

24 THE COURT: Um-hum.

25 MR. GOLUBCHIK: -- and can inform and provide

Page

12

1 additional information.

2 This is such a unique piece of property that the
3 idea is to create a frenzy and a bidding war amongst
4 interested parties. So again, relying on the experts who
5 are the top experts in the industry, we are going with the
6 suggestion of what's made by them.

7 At the end of the day we have to come back to the
8 court and we have to get court approval. So theoretically,
9 let's say we have 100 million-dollar sale price, which
10 doesn't cover all the secured debt, but that's a different
11 issue because there may be dispute the secured debt is not
12 allowed. We'll have to deal with it in the future, but the
13 hope is and the anticipation we'll have sufficient funds to
14 deal with all debts in full.

15 But we would have to come back to the court. We
16 would have to seek a court order. And if the amount is
17 low, the secured creditors object and we cannot show the
18 Court that the sale is appropriate under any of the 363(f)
19 standard, including the under (f)(5), the ability to compel
20 a secured creditor to take what they would take in a non-
21 bankruptcy such as a foreclosure process, a sale would not
22 happen. So there is a protection for the estate.

23 But again, we relied on the experts who are here
24 today that can discuss, if the Court wishes, that a minimum
25 bid is not required in a situation such as this with such a

Page

13

1 unique property.

2 THE COURT: The other specific question and I
3 neglected to mention earlier, this idea that you're
4 basically tying in your backup bidder or -- is it 45 days?

5 MR. GOLUBCHIK: Forty-five days.

6 THE COURT: Forty -- it's 45 days. That sounds a
7 little chilly to me, that that would possibly chill
8 bidding, right? What -- what's the reason for that
9 procedure?

10 MR. GOLUBCHIK: Again, the goal here is to sell
11 the property. If the initial bidder does not perform, we
12 have a backup. Very often in bankruptcy situations we have
13 backup bidders.

14 THE COURT: Right.

15 MR. GOLUBCHIK: That's the case here as well. So
16 just to be able to have someone in there so that we can
17 have a sale that occurs, if not immediately, within 45 days
18 thereafter.

19 THE COURT: But what you don't have very often,
20 at least in my 12 years of doing this, is that a sales
21 procedures order that provides for the assistance of the
22 backup bidder who will be locked in for 45 days as a backup
23 bidder. That I have never seen and I have never approved
24 and what is the reasoning behind that request?

25 MR. GOLUBCHIK: The reasoning is simple. Just to

Page

14

1 have a backup bidder that -- in case the person is not --
2 does not perform. We will have a sale process February 7th
3 and February 10th with a sale to close by February 28th, so
4 that's about three weeks. That's close to a month.

5 So we are going to have effectively one more
6 month thereafter for a backup bidder to stick around
7 because 45 days is from the time of the sale, not from
8 February 28th.

9 THE COURT: Why would that not just be agreed to
10 at the auction at the sale hearing?

11 MR. GOLUBCHIK: Well, that -- those -- you're
12 asking why is this something that hard and fast rule that
13 has to happen as opposed to --

14 THE COURT: Yes.

15 MR. GOLUBCHIK: -- negotiate with interested
16 parties?

17 THE COURT: Yes.

18 MR. GOLUBCHIK: I guess my question is,
19 Mr. Roffers, who is here, whether he'd come and if this is
20 something that can be negotiated at the end of the auction.
21 Would it be okay to --

22 THE COURT: Roffers? Yes, please.

23 Go ahead, Mr. Roffers. Thank you for joining us.

24 MR. ROFFERS: Good afternoon, Your Honor. Happy
25 New Year. So I can speak to what our normal procedure is

Page

15

1 and obviously this is a unique property. Rare air, but
2 not -- not that unusual to us. I mean, it's a -- and we
3 sell properties with this and deal with situations like
4 this, so it's not uncharted territory for us.

5 Normally our procedure locks in the second
6 highest bidder for 72 hours post-auction. And the reason
7 for that is, you know, if -- the way the gavel falls within
8 24 hours, the bidder is required to sign a purchase and
9 sale contract that's pre-approved and drafted without
10 negotiation, and then within 48 hours deposit an additional
11 ten percent of the purchase price into escrow.

12 So at that point in time if that bidder does not
13 honor any of those obligations or fulfill any of those
14 obligations, then we have the ability to award the property
15 to the second highest bidder. So that's our normal
16 procedure. I think in this case what I -- you know, you're
17 dealing with this billionaire crowd and, you know, I think
18 the key here is really to not have a lot -- too much
19 complexity, keep it simple. Negotiating people like that
20 is -- you know, they all want to be treated specially and I
21 think having just really clear rules of engagement, they're
22 going to focus everybody on the price rather than, you
23 know, other activities.

24 So I don't know if I addressed your question or
25 not, but I'll be quiet.

Page

16

1 THE COURT: Well, your normal procedure is -- was
2 very helpful. And when that -- it seems to me to make a
3 lot of sense of those in the type of property that you're
4 used to dealing with. And also, you know, in the
5 bankruptcy context where, you know, you typically have a
6 sale hearing there is a highest bidder who is the winning
7 bidder and then there is often a backup bidder who agrees
8 to be the backup in the event the sale isn't closed or by a
9 certain deadline.

10 What I'm not understanding here is this procedure
11 where you're the winning bidder, you're the winning bidder.
12 Everyone bids thinking they're going to be the winning
13 bidder, but if they're not -- if you're not the winning
14 bidder, you are locked in for 45 days. And I understand
15 this a market where these are parties with an awful lot of
16 liquid cash, but the -- the hundreds and millions of
17 dollars that we're talking about, I think this would not be
18 attractive to potentially not win a property and then have
19 the -- you know, not be able to do anything for 45 days.

20 So that's my concern. And Mr. Roffers, I think
21 that this is more a question for the bankruptcy lawyers.

22 MR. GOLUBCHIK: Your Honor, I'm wondering -- and
23 I just sent an email to see if the client is okay with
24 it -- to have a provision that at the conclusion of the
25 auction subject to consent of a backup bidder to be locked

Page

17

1 in, as opposed to hard and fast lock-in.

2 Mr. Roffers, since this firm is going to be
3 conducting the auction, is that something that's doable?

4 MR. ROFFERS: Yeah, I think that would be fine
5 and I think if we can procedurally have the 72-hour
6 provision, I think that's pragmatic and then give that
7 person the option to stay in a backup position for 30 days
8 or 45 days, I think that would be an appropriate balance
9 to -- that's what I would recommend.

10 THE COURT: Okay. Thank you.

11 Mr. Golubchik, anything else you wanted to speak
12 to before I go around -- you know, objections were due at
13 the hearing. We had one that was highlighted a little bit
14 in advance, but there may be others as well.

15 MR. GOLUBCHIK: Sure. I'll wait and we can
16 comment. The only question is just because technically
17 Mr. Perkins is the representative client, I want to make
18 sure that he's okay with this backup procedure.

19 THE COURT: Right. And if he needs to have a
20 separate conversation, if you want me to open up a breakout
21 room or if you want to, you know, speak separately, let me
22 know.

23 MR. GOLUBCHIK: Okay.

24 MR. PERKINS: This is Mr. Perkins. I think that
25 makes sense on what is -- has been described, so I'm good

Page

18

1 with that, David.

2 MR. GOLUBCHIK: Okay. Thank you.

3 THE COURT: Okay. And we'll confirm for the
4 record specifics before we get to the end of --

5 MR. GOLUBCHIK: Yes.

6 THE COURT: -- our conversations here today.

7 Let me first begin. We had one written objection
8 and that was from one of the secured creditors, Yogi. Who
9 would like to speak to that?

10 Mr. Shinderman, will that be you?

11 MR. SHINDERMAN: Yes. Thank you, Your Honor.

12 Mark Shinderman, Milbank, on behalf of Yogi Securities, a
13 secured creditor.

14 Your Honor, you understood the concern full well.
15 This is a trade-off, right? This is an unusual property.
16 It's been marketed for some time, but by a different person
17 with different asks, maybe different conditions. Nobody
18 knew the terms. They may have been very different than
19 they are today, so people know the property is in play,
20 they didn't know the terms.

21 So the trade-off between timing, a minimum bid,
22 and what you call the chilling effect, we could live with
23 the timing. We understand -- and by the way, I should
24 probably preview (phonetic) by saying, debtor's and
25 debtor's counsel has been very accessible to us. They've

Page

19

1 been very personable, very reasonable, very professional
2 and we thank that. As you know, that's not always the
3 case.

4 There's a trade-off here, Your Honor, and that's
5 between the sale time, the minimum bid and the backup bid.
6 With a minimum bid, we feel more comfortable with the time.
7 We understand Mr. Golubchik's representation about the
8 costs, the uncertainty. Then that's in the estate's best
9 interests to do sooner rather than later.

10 So if you could achieve a certain threshold
11 within that period of time, we'd support it. We'd support
12 the sale, but the lack of the minimum causes us great
13 concern.

14 Yogi has worked with both of the brokers and has
15 high respect for the brokers. We heard a couple of things,
16 however. Mr. Golubchik said that in the normal course they
17 would have a minimum bid. I believe the brokers have --
18 you know, would also say that in the normal course they
19 would have a minimum bid. What we don't have, is anything
20 in the record that says having a minimum bid here would be
21 detrimental to the process and that's really what I'm
22 focusing on.

23 So again, we can live with the tradeoffs between
24 timing and the backup bidder if we had a minimum bid and I
25 don't know that anyone says having a minimum bid would be

Page

20

1 detrimental. So that's our focus, Your Honor.

2 THE COURT: Thank you.

3 Well, Mr. Golubchik made that comment and I
4 expressed some skepticism that a minimum bid would somehow
5 inadvertently be setting a valuation or a ceiling. Maybe
6 it -- let's go around to the parties. There may be
7 something I'd like to speak with Mr. Roffers about also,
8 but why don't we go around to the other parties who are
9 here today.

10 Are there any other issues or objections? I'm
11 not quite sure how to do this. We have a lot of people
12 that -- I guess if someone wants to speak up you can kind
13 of raise your hand or -- Ms. Andrassy?

14 MS. ANDRASSY: Thank you, Your Honor. And sorry
15 for my audio problems earlier. They should be fixed now.

16 THE COURT: Oh, we can hear you.

17 MS. ANDRASSY: I represent Inferno Investment --
18 I represent Inferno Investment who holds the -- what was
19 the second priority lien against the property as of the
20 date of the filing. We filed an opposition yesterday, but
21 I think maybe because of the timing of the filing Your
22 Honor didn't get the opportunity to see it, but it's short.

23 I echo Mr. Shinderman's comments. That is
24 probably the biggest concern that my client has, both
25 because it could be big waste of time for both the buyer,

Page

21

1 the Court, the secured creditors. If a bid comes in that's
2 not high enough to pay off the liens against the property,
3 it's a waste of everyone's time. My client is not going to
4 consent. I'm not aware of any basis on which to dispute
5 its lien.

6 And the other issue with that is that there's a
7 listing agreement that's being entered into concurrently
8 with two brokers that has a minimum list price of 225
9 million dollars. So this isn't a situation where there's
10 not already a number out there and I think that separates
11 it from the psychological -- you know, the psychological
12 effect that not having a reserve is going to be, because
13 there is already a number out there. So my client would
14 strongly support the request that there be a reserve.

15 The other concern that I have, but it's -- I'm
16 afraid it's going to chill the bidding in this case, is
17 that there's a buyer's premium of 12 percent. And normally
18 that's intended to compensate the auctioneer for his
19 effort, but in this case under the employment agreement the
20 majority of that is actually being refunded or rebated to
21 the bankruptcy estate, so it's really not intended to
22 compensate the auctioneer. And given the expected purchase
23 price of this property, 12 percent is a huge number. And
24 so my client is concerned about that also having a negative
25 impact on the bidding and the price of the property.

Page

22

1 And the last one is the opposition and it's more
2 of a limited opposition because refutes, of course, the
3 sale of the property and the retention of the auctioneers
4 and the brokers, that we do have just concerns with some of
5 these procedures.

6 The last request that it made in the opposition
7 was that because of the interest of the secured creditors
8 in this case and this property, we would like to know --
9 get updates from the debtor about the number of bidders
10 who've registered and shown proof of funds. And there's
11 been a very open communication line in this case, so I
12 don't anticipate that that would be an issue, but my client
13 would request that as well.

14 MR. GOLUBCHIK: Your Honor, I can address the
15 last two points I think relatively easily, if that's okay.

16 THE COURT: Okay. What I'd like to do, if we
17 could, Mr. Golubchik --

18 MR. GOLUBCHIK: Oh, I'm sorry.

19 THE COURT: -- is go around and collect all of
20 the issues and then we'll give you an opportunity to
21 respond to everything.

22 MR. GOLUBCHIK: Fine.

23 THE COURT: Anything else? I'm kind of looking
24 for hands or maybe -- Mr. Bregman?

25 MR. BREGMAN: Thank you, Your Honor. Good

Page

23

1 afternoon again.

2 I'd just like to say that on behalf of our
3 client, Hilldun Corporation, we are supportive of the sale
4 process. We're appreciative of the efforts made by the
5 parties in interest and counsel to get us to this point.

6 Some comments on some issues that have been
7 raised. We believe the timing proposed is reasonable. In
8 light of the exposure, in light of the parties we're
9 dealing with and also in light of the macro-economic
10 circumstances, including anticipated fed rate hikes and
11 other variables that could make it problematic if this is
12 kept too far in the future, I think the key point on that
13 is the exposure those properties already had.

14 On the buyer's premiums, that ship has sailed.
15 The Court has approved the applications, but I think the
16 substantive point there is that every buyer who is going to
17 be looking at this property is going to be able to
18 understand the interplay between a buyer's premium and a
19 purchase price, so nobody is going to be misled or chilled
20 because that -- they all can do the math. They're all
21 sophisticated presumably. Certainly they are if they can
22 be bidding for this property. So I think the buyer's
23 premium, it's a non-issue. It's an economic matter.

24 The backup bidder concept, it seems to me there
25 was a bit of a disconnect in the discussion today between

Page

24

1 the notion of locking down the backup bidder, which it
2 seems to me should be required. It's easy to say to anyone
3 participating, if you participate, here's the rules of the
4 backup bidder. I've never seen an auction where there
5 wasn't a lockup of the backup bidder. I think the issue is
6 how long that lockup is. I heard the Court to be saying 45
7 days doesn't make sense because the buyers are going to
8 have the ability to close or not. They don't need --
9 there's not going to be a financing contingency --

10 THE COURT: Right.

11 MR. BREGMAN: -- here, so it should be able to be
12 closed maybe not in 72 hours, but it should be able to be
13 closed in a relatively quick period of time.

14 So our view is the backup bidder should
15 absolutely be required to be locked up to participate.
16 That shouldn't be negotiated at the auction. That would be
17 our view. We support the debtor's request in that regard,
18 but would suggest that perhaps the duration be moderated,
19 that that be the issue that folks focus on.

20 And lastly, on the minimum bid, candidly I think
21 it's a good idea to have a minimum bid. I get that that
22 issue probably will not come into play and I get the game
23 theory of auctions and the notions of coming in with no
24 minimum bid is creating excitement, but that's a double-
25 edged sword. You also could have a situation where someone

Page

25

1 looks at this and says, I'm not going to put up 280 million
2 dollars. So let's say people stay away and the highest bid
3 at the auction is 80 million bucks or 50 million bucks.
4 The debtors would have -- unless there's a change,
5 presumably they'd have to close with that and then the
6 objectors would come in and argue that their lien shouldn't
7 simply attach to the proceeds. There could be a fight.

8 I'm not super convinced that that is sufficient
9 protection under the circumstances or that that's advisable
10 because if 50 million bucks is the number, a lot of folks
11 might look at this and say, darn it, you know, I would have
12 come in at 50 million, I'd come in at 90 million, or
13 something like that.

14 So I think I would respectfully suggest that the
15 parties perhaps consider a reasonable minimum bid. Thank
16 you, Your Honor.

17 THE COURT: Thank you, Mr. Bregman.

18 Mr. Shinderman.

19 MR. SHINDERMAN: Yes, Your Honor. Following up
20 on Mr. Bregman, who's done an excellent job, I'm not
21 troubled by the backup bid that Mr. Golubchik and Mr.
22 Perkins proposed and maybe with the modification Mr.
23 Bregman that it should be 21 days or 30 days. It's not
24 unusual to have a backup bidder if everybody knows those
25 are the rules. These buyers, we heard, are sophisticated

Page

26

1 buyers who are not having financing contingency. So I'll
2 defer to the -- to Mr. Roffers, Mr. Perkins and Mr.
3 Golubchik. And I agree there's the tradeoff that Mr.
4 Bregman articulated, back to the point about talking of the
5 backup bid isn't material if we have a -- well, the
6 tradeoff would be if we have a minimum bid requirement.
7 Thank you, Your Honor.

8 THE COURT: Thank you.

9 So I don't see anyone else right now, but the --
10 you can certainly jump in or wave a hand if there are other
11 questions. Is Mister --

12 MS. MADOYAN: Your Honor.

13 THE COURT: Yes, Ms. Madoyan.

14 MS. MADOYAN: Yes, Your Honor. I just wanted to
15 let the Court know that we did also raise the issue of the
16 minimum bid early on with the debtor. However, you know,
17 because it's an issue that's more closely related to the
18 secured creditors and the other creditors, it's something
19 that at this point -- it's an issue that we see as well. I
20 wanted to let the Court know.

21 In addition, with respect to the buyer's premium,
22 some of other creditors raise, I also did raise that with
23 Mr. Golubchik when the employment application for the
24 brokers was filed. I did obtain an explanation that we
25 were fairly satisfied with. So perhaps that's something

Page

27

1 that Mr. Golubchik can address with the other creditors
2 that had an issue with the buyer's premium. So I just
3 wanted to let the Court know of the U.S. Trustee's position
4 or non-position at this point, I guess.

5 THE COURT: Okay. Thank you.

6 So Mr. Golubchik, a couple of things and, you
7 know, I'll hear your responses to everything. As you know,
8 when typically an asset is sold in the bankruptcy context,
9 what we often have is a stalking horse and I get a motion
10 to approve sale procedures with the stalking horse bidder.
11 And the big argument is this stalking horse and this price
12 set the market and they set the beginning bid and that's
13 going to encourage everyone to come in and bid more.

14 When you sell real estate, there's a listing
15 price, right? And the seller hopes that, you know, they're
16 going to generate multiple offers and end up getting what
17 they think the property is actually worth, which is always
18 more than its listed for.

19 So it's difficult for me, especially in light of
20 all the other comments that I've heard, to make a finding
21 that the evidence supports these procedures that don't have
22 any sort of minimum bid.

23 MR. GOLUBCHIK: Your Honor, if it's okay with
24 you, I'd like to address some of the other comments and if
25 it's still possible to do a breakout room for our group to

Page

28

1 discuss a minimum bid and come back. I do know that there
2 are case studies Concierge sent over also where with that
3 reserve numbers sort of substantially higher than
4 anticipated, but I'd like to discuss with them maybe for
5 ten minutes and if it's okay to reconvene, but --

6 THE COURT: Okay.

7 MR. GOLUBCHIK: Okay. But in the meantime, let
8 me address the other comments that were made and I think by
9 Ms. Andrassy.

10 With respect to keeping secured creditors in the
11 loop absolutely. This applies to an open process so we can
12 have -- hear out of discussions, let them know how the
13 qualifications and the process is going. No issues --

14 THE COURT: Yeah. I mean, perhaps there could be
15 something like a weekly report, you know, or a conference
16 call or something like that.

17 MR. GOLUBCHIK: Right. Yeah, it's something we
18 probably would want to do confidentially, substantially not
19 on the record, but --

20 THE COURT: Right.

21 MR. GOLUBCHIK: -- that's possible.

22 With respect to the buyer's premium, as
23 Mr. Bregman said, this was part of that employment
24 application that was addressed. At the end of the day,
25 everything here is about dollars and cents. If it costs

Page

29

1 more in a premium to purchase something, presumably someone
2 with also less money, that's exactly why we have the credit
3 provision here for funds to come back. So presumably a
4 buyer that is concerned about paying a lot for a buyer's
5 premium will offer less money, which means the net of the
6 estate is less. However, we give the credit back, which
7 brings it up.

8 Ms. Madoyan referenced the additional information
9 provided. That's the supplemental declaration of
10 Mr. Perkins that talked about incentives for the brokers.
11 As the purchase price goes up, the incremental value would
12 receive a higher commission structure and then with respect
13 to Concierge as the price goes up, the incremental credit
14 will be reduced so that everyone incentive to bring in the
15 maximum value.

16 So I -- but I think that was addressed and that
17 should have been covered with an employment application to
18 which an objection has not been filed by Inferno or anybody
19 else.

20 And I think that addresses all the outstanding
21 issues we discussed today, other than the minimum bid. And
22 if it'd be okay, I think a ten-minute discussion for our
23 group in a breakout room --

24 THE COURT: Let me create that right now. So,
25 Mr. Golubchik, that would be you, Mr. Arnold, Mr. Perkins

Page

30

1 and who else?

2 MR. GOLUBCHIK: Mr. Staglik, Mr. Moran,
3 Mr. Roffers, Mr. Kirman. I see Ms. Williams is on. Is
4 there anybody else that's on part of the debtor group?

5 THE COURT: Okay. Let me see if I can --

6 MR. ARNOLD: And Katherine McMains (phonetic),
7 please, Your Honor.

8 THE COURT: Okay. Hold on. Let me see this.

9 MR. SHINDERMAN: I'm not offended that I wasn't
10 invited, Mr. Golubchik.

11 THE COURT: Let's see here. Oh, and of course,
12 the -- we don't go alphabetically. We only go
13 alphabetically by first name, so Mr. Golubchik. Let me
14 see.

15 MR. GOLUBCHIK: Let's pull in Mr. Bregman. He
16 was a nice guy today.

17 THE COURT: (Laughter)

18 Okay. I think I may have missed someone. Oh,
19 Mr. Kirman. Okay. All right. So I have a breakout room
20 consisting of Aaron Kirman, Chad Roffers, David Golubchik,
21 Katherine McMains, Lawrence Perkins, Miles Staglik, Rita
22 Rameda Williams (phonetic), and Todd Arnold. Anyone else,
23 Mr. Golubchik?

24 MR. GOLUBCHIK: Did you mention Colin Moran?

25 THE COURT: I did not. Colin Moran.

Page

31

1 MR. GOLUBCHIK: Again, anyone else that we're
2 missing, please speak up. Guess that's it.

3 And, Your Honor, I'd ask just for everyone's
4 scheduling, ten minutes should suffice for us to talk.

5 THE COURT: Okay. That's fine. Did you all
6 receive an invitation to the room?

7 MR. GOLUBCHIK: Yes, we're heading there.

8 THE COURT: Okay. Go ahead. When you're
9 finished, just rejoin us.

10 MR. GOLUBCHIK: Will do.

11 THE COURT: Thank you.

12 Okay. For the rest of us here, why don't we do
13 this. I'm going to -- I will turn off my audio and video
14 for ten minutes. You can do the same. I'm going to ask
15 our courtroom deputy to stop recording for ten minutes and
16 we'll resume. Thanks, everyone.

17 (Off the record at 12:38 p.m. Back on the record
18 at 12:54 p.m.)

19 THE CLERK: Please come to order. This court is
20 now in session.

21 THE COURT: Thank you so much.

22 Okay. We are back on the Crestlloyd matter.

23 Mr. Golubchik, you want to fill us in?

24 MR. GOLUBCHIK: Yes, Your Honor. Thank you for
25 giving us some time to talk. In discussions with the

Page

32

1 brokers, the auctioneer, it is the view of the
2 professionals that a reserve would not be productive in
3 this case. And if it's okay, I'll do an offer of proof and
4 then if the Court wishes, we can swear Mr. Roffers in and
5 he can provide testimony.

6 THE COURT: Okay.

7 MR. GOLUBCHIK: Based on their experience, when
8 you have a reserve price, the sale prices have been closer
9 to the reserve price lower than the fair market value. So
10 when there are no reserves, the numbers historically based
11 on the experience have been lower. If you have a reserve,
12 their concern is it knocks out the big group of interested
13 parties who initially perceived this as not a great deal,
14 as opposed to being inside the auction and the frenzy of
15 bidding and bidding up. Mr. Roffers can discuss several
16 case studies, several experiences that he has that supports
17 it.

18 At the end of the day, as people discussed
19 earlier, this was the type of property that's going to have
20 a sophisticated buyer. The sophisticated buyer will have
21 the bankruptcy records, which are public, which will show
22 what the secured debt is. The bankruptcy records are going
23 to show that at the end of the day any sale is subject to
24 approval of Your Honor, so we have to go back so a
25 sophisticated buyer will know what the threshold is that

Page

33

1 needs to be achieved.

2 And again, that is the backup where we go back to
3 the court and Your Honor can say, no, I'm not willing to
4 sell it for 120 million dollars. I assume we would have a
5 lot of objections from secured -- other secured creditors.

6 So while the belief is that the number is going
7 to succeed, especially based on I think a couple days ago
8 we saw that the CEO of Coinbase bought a 25,000 square foot
9 property for 133 million dollars, which is a quarter of our
10 size with less desirable views.

11 So the thought is we're going to achieve the
12 numbers in today's market. If it makes sense and if it's
13 acceptable to the Court, Mr. Roffers can be sworn in and he
14 can discuss why in his professional opinion he believes
15 that setting a reserve price is going to be detrimental to
16 the sale of this property.

17 THE COURT: Yeah, because it's an issue that's
18 been raised by a lot of people here today and in the
19 papers, I think I'd like to do that. I will try to keep
20 this relatively brief.

21 I am going to ask our courtroom deputy, Dawnnette,
22 if you would please swear in Mr. Roffers.

23 MR. GOLUBCHIK: Your Honor, I see Mr. Bregman
24 doing the peace sign prior to testimony.

25 THE COURT: Mr. Bregman?

Page

34

1 MR. BREGMAN: Yes. Having heard what
2 Mr. Golubchik said and his offer of proof, I just wanted to
3 suggest a path forward that may be acceptable to the
4 parties.

5 The concerns that I articulated would be
6 addressed if we didn't have a reserve, but if we included
7 in the order some nebulous opportunity for -- to address
8 the situation that I hypothesized, the sale -- the highest
9 bidder at the particular sale is really, though, and it's
10 not what anyone anticipated. You know, the 50 million
11 bucks, for example, is the highest number.

12 I think that could be addressed by including --
13 by expanding the bases to oppose approving the sale, which
14 I think are consistent with Mr. Golubchik's notion that
15 after it's done, it's come back to the Court and the Court
16 may look at this and say, no, I don't want to approve it.

17 I think we could include in the order a mechanism
18 to give -- to animate that concept, something as simple as
19 saying that a basis to not approve the sale would be that
20 the Court determines that it's improvident under the
21 circumstances.

22 THE COURT: That's always a basis to not approve
23 a sale. I -- Mr. Golubchik can tell you how much I cut
24 from all of the orders that he lodges with me. It's not
25 necessary. It's not necessary language, but thank you.

Page Chad Roffers - By the Court 35

1 MR. BREGMAN: Thank you again, Your Honor.

2 THE COURT: Dawnnette, are you with us? Would you
3 please swear in Mr. Roffers?

4 THE CLERK: Please raise your right hand.

5 CHAD ROFFERS, SWORN

6 THE CLERK: Please state your name and spell it
7 for the record.

8 THE WITNESS: Chad Roffers, C-H-A-D R-O-F-F-E-R-
9 S.

10 THE CLERK: Thank you.

11 THE COURT: Thank you. Thank you, Dawnnette;
12 thank you, Mr. Roffers.

13 Mr. Golubchik, if you don't mind, I'll just jump
14 in and ask Mr. Roffers to outline.

15 MR. GOLUBCHIK: Sure, Your Honor. If it would be
16 okay for purposes of foundation and background experience
17 can we incorporate his declaration in support of employment
18 application?

19 THE COURT: Certainly and I was about to
20 reference that. Those are already in evidence.

21 EXAMINATION

22 BY THE COURT:

23 Q. So, Mr. Roffers, we already know your background
24 and your qualifications. Would you be able to elaborate a
25 little bit on what Mr. Golubchik mentioned, the idea that

Page

Chad Roffers - By the Court

36

1 having here a minimum bid would not be helpful? And in
2 particular, I think I and the objecting creditors are most
3 interested in hearing some examples of past transactions
4 where you found it to be beneficial not to have a minimum?

5 A. Yes, Your Honor. Be happy to.

6 Q. Okay.

7 A. So I think the issue -- the issue at hand with
8 this property is there are no costs. The highest precedent
9 ever is 165 -- 165 million, so this is uncharted
10 territory in Los Angeles and the world. So what this
11 property is worth? Who knows. Right? I mean, ultimately
12 I would say that our objective in the next five weeks is to
13 generate 1,000 inquiries from around the world. You know,
14 ultimately to distill that down into probably 20 serious
15 parties really, you know, taking a serious look at this
16 and, you know, target having three to five qualified
17 bidders, I think that's a realistic -- you know, a
18 realistic set of objectives and based on our experience and
19 this type of price point.

20 So we're talking about a very small pool of
21 buyers who are smart and they're going to say, you know,
22 I -- this is a great property, but there is going to be
23 opportunists, right? The type of man or woman who's going
24 to buy this property is -- you know, they're smart, they're
25 opportunists and they want to feel like they're getting a

Page

Chad Roffers - By the Court

37

1 good deal and they don't want to feel like they -- they
2 overpaid, which means the competition that's generated at
3 the auction is really going to prove what this property is
4 worth and I think that the more competition we have, the
5 better result.

6 And I'll just give you a specific example, a
7 recent, you know, property that we sold in Texas. Slightly
8 different price point, but I think it will articulate the
9 point. Valued at ten million or listed for ten million and
10 it was -- there was a little under two million dollars of
11 debt and the estate said, we're going to set the floor at
12 the two million dollars and we ultimately got the asking
13 price for the property. And the reason for that was that
14 there was no question, nobody sitting on the fence saying,
15 I don't know if the judge is going to approve this or, you
16 know, I'm just not going to engage and versus it was such
17 an obvious, you know, opportunity. There was very little
18 doubt that the property wasn't going to sell, right? And
19 we ultimately had ten bidders with a very competitive
20 auction and it was a now-or-never thing. And I think
21 that -- so that's one of many examples.

22 And I think also the -- you know, the notion -- I
23 have empathy towards the secured creditors here, certainly
24 under -- you know, I appreciate that, but unfortunately,
25 you know, what -- what the liabilities on the property

Page

Chad Roffers - By the Court

38

1 really have nothing to do with what it's worth. And, you
2 know, it might bring 250 million dollars at the auction; it
3 might bring 100 million dollars at the auction. We don't
4 know because we're not the buyers. And I think that the
5 purest way to maximize the value for this property is just
6 make it clear that this property is selling, right.

7 We've been given a mandate to figure out what
8 this property is worth. The -- you know, there's no second
9 bite at the apple. It's now or never and I think it's
10 going to result in the right amount of competition. You're
11 going to see who the bidders are. You're going to know,
12 you know, who ultimately materialized and competed. And I
13 think that you'll have the discretion to say, you know, I'm
14 not going for it or I am. It'd be entirely your call. But
15 I think to try to guess at what a reserve should be or back
16 into a reserve just because it makes the creditors feel
17 good, you know, really is inconsistent with what this
18 property is worth. Nobody knows.

19 Q. Okay. Thank you.

20 A. Oh, and then one -- one final -- one final thing.
21 I'm sorry, Your Honor.

22 Q. Okay.

23 A. The other thing I would just say is that, you
24 know, in our case studies in Los Angeles, I think I've done
25 eight transactions with Mr. Kirman. And two had minimums

Page

Chad Roffers - By the Court

39

1 and six didn't and the ones that didn't sell were the ones
2 that had minimums. And I think that the -- and the reason
3 is, if you set the minimum, you know, arguably too close to
4 whatever the market value is, right, you lose competition.
5 You lose -- you lose people, like, oh, I don't think I want
6 to spend -- let's pretend you set it at 150 million or
7 whatever you -- you know, the -- whatever the secured
8 creditors are. There's going to be people that say, oh,
9 you know, I'm not going to get in. And you may have a
10 bidder who's prepared to go north of that, but you lose the
11 competition to push him or her, you know, beyond that
12 point, and I think that's also really important -- really
13 important point in terms of this.

14 And I think the third thing is the last thing
15 this team wants is -- we had the opportunity to work with
16 Michael Jordan 11 years ago and he wanted a minimum and I
17 caved. I gave -- I said, "Fine, you can have a minimum,"
18 and the minimum was 11 million dollars on a 13 million-
19 dollar asking price. And we had a high bid at nine-and-a-
20 half million, you know, at the auction and bottom line is
21 it didn't sell and 11 years later, they still owned the
22 property. Right. And that, you know, would be -- it --
23 it's -- we have really good momentum right now. The
24 messaging has been very positive. You know, the fact the
25 property doesn't have -- doesn't have a certificate of

Page Chad Roffers - By the Court 40

1 occupancy is going to be a head wind we're going to have to
2 deal with. Right? You're asking somebody to pay more than
3 any other property ever in the history of the world and,
4 oh, by the way, there's no C of O. Good luck. That's a
5 head wind, as you can imagine. And so that's already a big
6 head wind. And I think putting a minimum out there that's
7 argu -- you know, either makes the creditors feel good or
8 just too close to perhaps where buyers think the value is,
9 we're going to lose competition and ultimately get an
10 inferior price.

11 THE COURT: Thank you. Briefly let me just go to
12 the -- you've raised some concerns on this issue.

13 Ms. Andrassy, any questions or anything you'd
14 like Mr. Roffers to address while he's sworn in?

15 MS. ANDRASSY: I guess the rub that I have here
16 is that this is a bankruptcy case. In order to sell free
17 and clear you're still going to have to settle for a price
18 above the lien, you know, a listing price at 295. And it's
19 kind of like the example he gave with the Texas situation
20 where there was a floor of two million, there was a list
21 price of ten. Floor of two million happened to be equal to
22 the secured claims. I'm not quite sure how this is
23 different except that -- I mean, I understand the point --
24 that nobody really know what the value of this is.

25 The fact is that they're not going to be able to

Page

Chad Roffers - By the Court

41

1 sell free and clear of liens unless they meet the statutory
2 requirements and that's why I would propose -- I believe
3 that we should have a reserve price. I hear what he's
4 saying, but I don't have the answer response to that issue
5 because you do have a listing agreement here at 295
6 million.

7 THE COURT: Ms. Andrassy, that wasn't exactly a
8 question, but I don't know if there's anything else you
9 wanted to comment on based on counsel's comments there.

10 MS. ANDRASSY: Well, I think the question is, how
11 it relates to the fact that there's a listing agreement of
12 295,000 and the reality that you've got to come into
13 court --

14 THE COURT: Yeah.

15 MS. ANDRASSY: -- into court and still get
16 approval under Section 363 to sell free and clear in order
17 to meet the obligation to convey marketable title. I think
18 that kind of sets those apart a little bit.

19 MR. GOLUBCHIK: I think that's more of a legal
20 bankruptcy --

21 THE COURT: Yeah, I was about to say the same
22 thing.

23 MR. GOLUBCHIK: -- question. I'm happy to
24 address it, if you want, Your Honor. It's we currently
25 have two brokers working -- two broker shops working. If

Page

Chad Roffers - Cross

42

1 theoretically they get someone who comes in tomorrow with a
2 great bid, we can cancel the auction. Under our employment
3 agreement there's a fee that's paid, a reduced fee, but we
4 have the ability to sell right now before going to auction.
5 So if someone comes in sooner, that's great. But at least
6 the world is going to know that there is no do over after
7 this February 7th to February 10th auction process. So I
8 think there are two different issues.

9 THE COURT: Thank you.

10 Mr. Shinderman.

11 MR. SHINDERMAN: Yes, Your Honor. I'll be brief.
12 I don't want to fight with Mr. Roffers at all, but I wanted
13 to clarify.

14 CROSS-EXAMINATION

15 BY MR. SHINDERMAN:

16 Q. Mr. Golubchik made a proffer that you think a
17 minimum price could be detrimental. Is that your
18 testimony, sir?

19 A. Yes.

20 Q. Okay. And second, you said your thesis is that
21 if I set the price too high you might limit the amount of
22 competition, but you also said that nobody really knows
23 what the value is until we find out what the value is,
24 correct? Is that correct, sir?

25 A. Yes, that's correct.

Page

Chad Roffers - Cross

43

1 Q. So isn't it possible that a bidder sitting at
2 home, such as Mr. Geher might think the property is going
3 to sell for 300 million dollars and not show up for auction
4 because he doesn't have a guidepost?

5 A. So that's why -- it's a good question of why we
6 run a multi-day auction process that's transparent. Quite
7 frankly, not just the bidder, but anybody in the world who
8 wants to log in is going to be able to, you know, track
9 this. You'll have a front row seat. And, you know, for
10 every bidder it's transparent real time what the bid is and
11 what the, you know, current incremental ask is. So I think
12 that's the big part of -- and I think, for coming back to
13 the court and, you know, getting in front of Your Honor
14 again to say, hey, we have a five-day auction, we have
15 these five billionaires competing and, you know, these were
16 the different bids and this is where we landed. You know,
17 there's not going to be any mystery for somebody who's kind
18 of waiting and there will be people who wait till the last
19 day. No question in my experience or maybe even the last
20 hour to get in because, you know, they're waiting to see
21 what this property is worth because nobody knows, right.
22 And I think that is really important and I think that's --
23 I think that's another reason where we do have an asking
24 price. The guide right now is 295. So we -- you know,
25 that's the asking price that's been established for the

Page

Chad Roffers - Cross

44

1 property. It's been determined that all parties want this
2 property sold immediately. We're going to run an auction
3 process. We fully anticipate the court to approve, ratify
4 the sale now or never, you know, and I think that's
5 ultimately the way to maximize the value of this property.
6 I think if we put a minimum out there it's going to need to
7 be published and that becomes your new asking price, in my
8 experience.

9 So, for example, you put a 150 million on this
10 property, right, it undermines the 295 because that's going
11 to be the now new number everybody is shooting for and then
12 the next question is going to be, well, can I get it for
13 less than that.

14 So I think it ultimately, you know, undermines
15 the potential of the property and if there's somebody out
16 there who thinks this property is worth 295 million, I
17 don't want to, you know, deter them by saying, hey, we
18 think the minimum should be 150, that's really what we
19 think it's worth.

20 Q. So let me ask -- and I don't mean to be dense
21 about this -- you say the asking price is 295. Has that
22 been advertised to the world?

23 A. It will be. It will -- I mean, I think my
24 understanding is Monday the property is, you know,
25 scheduled to get, you know, officially put on the MLS, the

Page

Chad Roffers - Cross

45

1 market, and it will -- the world will know the asking price
2 is 295.

3 Q. And so just so I'm clear, this goes to
4 Mr. Golubchik's point about if someone came in and offered
5 you 295 tomorrow, we might cancel the auction. Is that the
6 point of the asking price?

7 A. I think the point of the asking price is three
8 things. And we had a lot of dialogue about establishing
9 the asking price and, you know, this property has been
10 talked about, you know, half a billion at one point, right,
11 and, you know, et cetera. If you think about the
12 psychology of who's going to buy this, right, it's going to
13 be somebody who, one, has lots of money, probably somebody
14 who has a big ego potentially, high profile. I mean, these
15 people want to win, right. They want to feel good about
16 their purchase, they want to feel like they outsmarted
17 everybody else, you know, et cetera. And I think it's a
18 lot easier to feel like you won at 200 million knowing that
19 the asking price was 295 than you won at 200 million and
20 the asking price was 150, right, and you had to overpay.

21 So I think it establishes. It sets a mark. This
22 is what we think this property, you know, is worth. This
23 is -- you know, this is our asking price but, you know, you
24 the bidders and the buyers are going to -- you know, figure
25 out what this is worth and you're going to compete in a

Page

Chad Roffers - Cross

46

1 transparent fair process and at the end of the auction, you
2 know, you, the buyers, can determine the market value of
3 this property.

4 Q. And so if Mr. Geher has the 295 million lying
5 around, he should call you.

6 Last question would be, given the unique
7 property, given that we haven't started the sale and
8 announce the 295 asking price, is 45 days really the best
9 way to attract the fair market value or would more time
10 be -- if available would that be welcome?

11 A. I'm comfortable with the timeline. It's
12 commensurate with our normal protocols. It's typically
13 five weeks, so -- and I think it is important to point out
14 really, you know, this kind of -- this auction process, you
15 know, kind of got covered in the press, you know, over a
16 month ago. The word is out and -- and I actually think it
17 might, you know, kind of look back, quite frankly, we start
18 back-pedaling versus we have -- we have momentum. The
19 team -- you know, the team has been working for a month,
20 you know, obviously subject to being approved to do so but
21 in good faith so that we're ready to hit the ground
22 running. I'm actually in Los Angeles right now. I'll be
23 at the property this afternoon with the brokers, you know,
24 so we already have interest. There's already a showing
25 scheduled I think for Saturday.

Page

Chad Roffers - Cross

47

1 So I think and also, I think Mr. Bregman, you
2 know, pointed out, you know, the world is an uncertain
3 place. Things are pretty good right now. The stock market
4 is -- you know, there's a lot of momentum and so I don't
5 feel like for some reason if the extra time is going to
6 make a difference. An extra week or two is not going to
7 make a difference. I think we have at minimum we have
8 interest. It's a positive story right now. There isn't a
9 lot of negativity or a cloud regarding the bankruptcy,
10 almost irrelevant, right. It's like this is an iconic
11 property and it's selling on February 10th.

12 MR. SHINDERMAN: Judge, I have one more question
13 and --

14 THE COURT: Okay.

15 MR. SHINDERMAN: -- I'm thinking on this and
16 Ms. Andrassy's point. If we can object to the sale if we
17 need to object the auction won't be presumptive, the end of
18 the story. We take great, you know, comfort in that.

19 BY MR. SHINDERMAN:

20 Q. My last question is picking up on Mr. Bregman's
21 point, on having a backup bidder, I believe the profitable
22 point was having a backup bidder is not uncommon. Given
23 the unique buyer, maybe it doesn't need to be 45 days. It
24 could be 21 or 30 days. What is a reasonable period of
25 time for these buyers to close a sale?

Page

Chad Roffers - Cross

48

1 A. So we -- under our procedures we have a deadline
2 of February 28th to close the sale. So the determination
3 by, let's say, March 1 whether we need a backup bidder or
4 not.

5 Q. So if that's the case -- I guess, Your Honor,
6 I'll just take a note from Mr. Golubchik -- in that case,
7 having a backup bidder for 10 or 15 days would work. Then
8 you don't need 45 days to the Judge's point, is that
9 correct?

10 A. No. If we're using -- the auction concludes on
11 February 10th, let's say, and I think an agreement has to
12 be executed within 24 hours.

13 Q. Yes.

14 A. Okay. February 11th, so we need 17 days to get
15 to the closing if it happens. If it doesn't happen, 18
16 days, so 21 days maybe would be -- that'd be acceptable for
17 a backup bidder as of -- less than half of the 45.

18 MR. SHINDERMAN: Then I know -- Your Honor, I
19 shouldn't do this. I know I lied. I have one more
20 question.

21 Mr. Roffers --

22 THE COURT: Go ahead.

23 BY MR. SHINDERMAN:

24 Q. Would it hurt in any way to post -- push the
25 auction one week or is it too late to do that?

Page

Chad Roffers - Cross

49

1 A. No. But, you know, it -- I think it's important.
2 We need to, you know, measure twice and cut once and we
3 want to play offense, right. We already have this head
4 wind of the C of O, right, and I don't want to
5 underestimate. That is an issue we're going to have to
6 deal with. It's our biggest issue, and the other issue is
7 just nobody -- you know, nobody knows what this is worth.
8 And then the third issue is, you know, still got to get
9 approved by the court. So those are our -- you know, our
10 hurdles. But if -- an extra week, I have no issue with
11 that.

12 MR. SHINDERMAN: Okay. Thank you, Your Honor. I
13 have nothing further truly this time. Thank you.

14 THE COURT: Thank you. And I do want the record
15 to reflect that Mr. Geer has not indicated one way or
16 another whether or not he plans in bidding.

17 Anyone --

18 MR. GOLUBCHIK: Your Honor, if I may, just so
19 it's very clear, I think our position is the debtor that --
20 is that the DIP portion of the loan is what could be credit
21 bid. As to other creditors, we've explained there may be
22 issues which we'll deal with in the future. I have a
23 feeling 12 million dollars doesn't make sense for Hankey
24 Capital to bid on, but I just want to put that on the
25 record.

Page

50

1 MR. GEHER: And, Your Honor, if I may, I've been
2 silent this hearing. Everything I've heard Hankey would
3 support. I know minimum bid, we think that would help
4 maximize the bid, bring in the necessary competition to let
5 human nature help us achieve a better price than may be
6 otherwise. And a minimum bid would just knock out people
7 who maybe had they been in the game would have helped us.
8 They may not have won, but they may have helped us get a
9 winning bid where we wanted to be.

10 And my concern with setting a minimum bid is
11 bluntly, how are we doing that. Hearing from Mr. Roffers,
12 I don't think we can say, well, the property down the block
13 is -- gee, it's marketed for X dollars because there's a
14 property around the block that's not cheap, but that's not
15 the same property, so it's apples to oranges.

16 And then if we're going to set a minimum bid
17 based on debt, there may or may not be issues with the
18 debt. My understanding from Mr. Golubchik, he's doing some
19 investigations on everybody's debts. There may be issues.
20 There's prepetition lawsuits over things like priorities.

21 So if we're going to set a minimum bid based on
22 creditors' claims, to me that's a disconnect because the
23 people that are buying it don't care about the creditor
24 claim. They're buying a piece of property for what they
25 think is reasonable or even better psychologically if they

Page

51

1 think they're getting a good deal. And I -- what I believe
2 based on hearing all the evidence and Mr. Roffers'
3 testimony is what's going to be beneficial for the estate
4 in maximizing the value is bringing more people into the
5 game, letting more players be around the table yelling and
6 screaming which would drive up a price.

7 And there's one thing we can all agree on. We
8 all on this call, other than potential reporters who are
9 just here taking notes, we want the highest price possible.
10 And from what I'm hearing, the highest price possible would
11 more likely than not to be achieved by the lack of a
12 minimum bid, not by imposing a minimum bid.

13 So, Your Honor, I just wanted to put that out.
14 I've been silent up till now. I wanted to hear what
15 everybody had to say and based on the totality of what I've
16 heard, we support no minimum bid and the procedures as
17 they're presented, other than a potential spike tweak about
18 the backup bid.

19 THE COURT: Okay. Thank you.

20 Mr. Roffers, thank you.

21 Thank you, everyone, for all of your comments and
22 thanks to the debtor and debtor's counsel for -- you're
23 really making every effort to address everything. I think
24 that with a change in what I guess we'll just call the
25 backup bid lockup to -- I think 21 days sounds like the

Page

52

1 right number, I'm willing to approve these procedures.

2 I just want to look at the calendar here to make
3 sure. The suggestion on a sale motion, I just had a couple
4 concerns about that date on the sale hearing. So you
5 suggested February 25th. Well, actually, yeah, that should
6 work. That will work. Let's make that 11:00 instead of
7 10:00. I think that should still give you plenty -- give
8 us plenty of time for that day. I don't love having left
9 in 24 hours from reply to hearing. We'll be optimistic
10 that there aren't too many issues.

11 MR. GOLUBCHIK: I'm wondering, Your Honor, if it
12 makes sense -- let me look in the calendar just to move --
13 the 22nd, move by one day. So deadline of the debtor to
14 file February 14th instead of the 15th.

15 THE COURT: Okay.

16 MR. GOLUBCHIK: Opposition would be February 21.

17 THE COURT: Well, that's a holiday then,
18 Mr. Golubchik. That's the President's Day holiday.

19 MR. GOLUBCHIK: How about --

20 THE COURT: I mean, CM-ECF works but, you know,
21 I --

22 MR. GOLUBCHIK: In the interests of making it
23 happen, we will -- if that's necessary we will make -- we
24 will have the filing done on or before that date. So that
25 deadline is for the debtor, I believe, right, February --

Page

53

1 THE COURT: Well, no. The debtor --

2 MR. GOLUBCHIK: Oh, the 21st. I'm sorry. I was
3 looking --

4 THE COURT: -- still is in --

5 MR. GOLUBCHIK: -- at the 23rd. Okay.

6 THE COURT: So right now what you have is
7 debtor's sale motion February 15th, opposition February
8 22nd, which is the day after the holiday, reply February
9 24th, and then your hearing the next day.

10 MR. GOLUBCHIK: Your Honor, we will give
11 ourselves and if it done about by the 23rd. We'll make it
12 happen.

13 THE COURT: All right.

14 MR. GOLUBCHIK: Mr. Arnold and I can handle
15 everything.

16 THE COURT: All right.

17 MR. GEHER: Your Honor, can we go back over that
18 again? I'm sorry. I got a little confused.

19 THE COURT: Okay.

20 MR. GOLUBCHIK: Sorry, Tom.

21 THE COURT: And this is what is in the sale
22 procedures motion, so I haven't changed anything from what
23 the debtors have requested. So debtors file and serve
24 their sale motion February 15th, opposition to the sale
25 motion argue February 22nd. That's the day after the

Page

54

1 President's Day holiday. And Mr. Golubchik has kindly
2 offered to have the reply no later than February 23rd. I'm
3 not going to put a time deadline on that.

4 MR. GOLUBCHIK: Your Honor, my request is -- just
5 goes from our practice I know everyone waits till the last
6 minute to file things. Can we make February 22nd either
7 9:00 a.m. or noon for all positions so at least we'd have
8 some time that date which we'll be filing on the 23rd?

9 THE COURT: How about at noon?

10 MR. GOLUBCHIK: Okay. And then we'll file by
11 midnight by the end of the day on --

12 THE COURT: Yeah, you can have till midnight,
13 Mr. Golubchik. That's fine.

14 MR. GOLUBCHIK: We'll need it.

15 THE COURT: All right. So sale -- hearing on the
16 sale motion will be February 25th at 11:00 a.m., so we'll
17 set for an hour later for our start time, but again, that
18 should be fine. You know, any -- anyone who needs to
19 testify obviously should be available on that date.

20 All right. We will see what happens.

21 MR. GOLUBCHIK: We'll submit an order. Thank
22 you, Your Honor. Thank you --

23 THE COURT: Thank you.

24 MR. GOLUBCHIK: -- everyone else.

25 ATTORNEYS: Thank you, Your Honor.

Page

55

1 THE COURT: Thank you, everyone. Now we're
2 adjourned for today.

3 (At 1:26 p.m.)

4 * * * * *

5 I certify that the foregoing is a correct
6 transcript from the electronic sound recording of the
7 proceedings in the above-entitled matter.

8

9

10 *Ruth Ann Hager*

11

12 Date: 3/15/2022

13 RUTH ANN HAGER, C.E.T.**D-641

14

15

16

17

18

19

20

21

22

23

24

25